

Canada. Capital and Corporal Punishment  
and Lotteries, Joint Committee of the  
Senate and the House of Commons on,

FIRST SESSION—TWENTY-SECOND PARLIAMENT  
1953-54



Joint Committee of the Senate and the House of Commons

ON

# CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

*Joint Chairmen:*—The Honourable Senator Salter A. Hayden

and

Mr. Don. F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

TUESDAY, APRIL 27, 1954

MAY 11 1954

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WITNESSES:

*Representing The Chief Constables Association of Canada;*

Mr. Walter H. Mulligan, President, and Police Chief of Vancouver;

Mr. George A. Shea, Secretary-Treasurer and Director of  
C.N.R. Police, Montreal;

Mr. Duncan MacDonell, Police Chief of Ottawa;

Mr. J. A. Robert, Police Chief of Hull; and

Mr. F. W. Davis, Police Chief of Moncton.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
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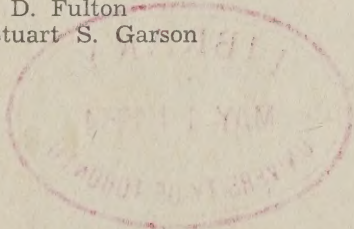
Mr. E. D. Fulton

Mr. H. E. Winch

Hon. Stuart S. Garson

A. Small,

*Clerk of the Committee.*





# MINUTES OF PROCEEDINGS

## MORNING SITTING

TUESDAY, April 27, 1954.

The following members of the Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries were present at 11.00 a.m. this day: Messrs. Brown (*Brantford*), Brown (*Essex West*), Fairey, Fulton, Lusby, Murphy (*Westmorland*), Valois, and Winch—(8). In the absence of a quorum, the Joint Chairman, Mr. Don. F. Brown, announced that the Committee's proceedings are postponed until 3.30 p.m. this day when its business would be resumed from Wednesday, March 31, 1954.

## AFTERNOON SITTING

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 3.30 p.m. The Joint Chairman, Mr. Don. F. Brown, presided.

*Present:* Messrs. Brown (*Brantford*), Brown (*Essex West*), Fairey, Fulton, Lusby, Mitchell (*London*), Murphy (*Westmorland*), Valois, and Winch—(9).

*In attendance:*

*From The Chief Constables Association of Canada:*

Mr. Walter H. Mulligan, President of the Association and Police Chief of Vancouver;

Mr. George A. Shea, Secretary-Treasurer of the Association and Director of C.N.R. Police, Montreal;

Mr. Duncan MacDonell, Police Chief of Ottawa;

Mr. J. A. Robert, Police Chief of Hull; and

Mr. F. W. Davis, Police Chief of Moncton.

*Counsel to the Committee:* Mr. D. G. Blair.

On motion of Mr. Fulton, seconded by Mr. Murphy (*Westmorland*),

*Ordered,*—That the Clerk of the Committee obtain as soon as possible the following documents recommended by the Subcommittee on Agenda and Procedure for the use of the Committee:

1. Three complete sets of the Minutes of Evidence taken by the U.K. Royal Commission on Betting, Lotteries and Gaming, 1949-51.
2. Three copies of the Final Report of the U.K. Royal Commission on Lotteries and Betting, June 1933;
3. Three copies of the Report of the U.K. Departmental Committee on Corporal Punishment, 1938;
4. One copy of U.S.A. Senate Report No. 725, 82nd Congress, known as the Kefauver Report on Crime and Gambling; and
5. Thirty-five copies of U.S.A. National Prisoner Statistics, No. 10, March 1954—Executions 1930-53.

The Presiding Chairman introduced the delegation from The Chief Constables Association of Canada.

Police Chiefs Mulligan, Shea, MacDonell, Robert and Davis were called. Police Chief Mulligan made the presentation on capital punishment and, together with the other four members of the delegation, was questioned thereon.

During the course of the questioning period on capital punishment, on request of Messrs. Lusby and Winch, it was agreed that Police Chief Mulligan would make available to the Committee a report on murders in Vancouver for the last ten years.

Police Chief Mulligan also made the presentation on corporal punishment and, together with the other four members of the delegation, was questioned thereon.

During the course of the questioning period on corporal punishment, on request of Mr. Winch, it was suggested that Police Chief Mulligan be given an opportunity before leaving Ottawa of enlarging his statement on corporal punishment in respect of the Youth Guidance Detail established by Vancouver police officers.

On behalf of the Committee, the Presiding Chairman thanked the delegation from The Chief Constables Association of Canada for its presentations on capital and corporal punishment and announced that the delegation's presentation on lotteries would be commenced at 4.00 p.m. tomorrow.

At 6.00 p.m., the Committee adjourned to meet again as scheduled at 4.00 p.m., Wednesday, April 28, 1954.

A. SMALL,  
*Clerk of the Committee.*



## EVIDENCE

TUESDAY, April 27, 1954,  
3.30 p.m.

The PRESIDING CHAIRMAN (Mr. Brown Essex West): We will come to order gentlemen.

A motion will be entertained which has been referred to and considered by the subcommittee, moved by Mr. Fulton, seconded by Mr. Murphy, that the Clerk of the committee obtain as soon as possible the following documents for the use of the committee: (1) Three complete sets of the minutes of evidence taken by the U.K. royal commission on betting, lotteries and gaming, 1949-51. (2) Three copies of the final report of the U.K. royal commission on lotteries and betting, June, 1933. (3) Three copies of the report of the U.K. Departmental Committee on corporal punishment, 1938. (4) One copy of U.S.A. Senate report No. 725, 82nd Congress, known as the Kefauver Report on crime and gambling. (5) 35 copies of U.S.A. National Prisoner Statistics, No. 10, March 1954.

All in favour?

Carried.

Now, gentlemen, we have with us today representatives of the Chief Constables' Association of Canada in the persons of Walter H. Mulligan, President of the Association, and police chief of Vancouver; Mr. F. W. Davis, Police Chief of Moncton, New Brunswick; Mr. D. MacDonell, Police Chief of the city of Ottawa; Mr. J. A. Robert, Police Chief of the city of Hull; and Mr. George A. Shea, secretary-treasurer of the Association and director of C.N.R. police, Montreal.

If it is your pleasure I will now call these gentlemen to come forward. Police Chief Mulligan is to be the spokesman.

The procedure to be adopted will be a consideration of, first, capital punishment. After the presentation of the brief by Police Chief Mulligan, the committee members will be permitted to examine the chiefs with such interrogations as they may deem advisable in the usual way of course. Then, we will have the presentation on corporal punishment followed by the usual interrogation; and then, tomorrow, you will have a presentation on lotteries by this association followed by the usual interrogation. If it is your pleasure we will proceed with the presentation on capital punishment.

Police Chief Mulligan.

Walter H. Mulligan, President of the Chief Constables' Association of Canada, called:

The WITNESS: Mr. Chairman and gentlemen, may I say at the outset that there were to be two delegates here this afternoon in the persons of Director of Police in the city of Montreal, Albert Langlois, and Chief Constable John Chisolm of Toronto. I am disappointed that they are not here because I feel that they would be of great assistance to the committee. Mr. Langlois' wife was taken ill so that he was unable to be here. I believe Mr. Chisolm may be here tomorrow.



In my capacity as President of the Chief Constables' Association of Canada, I want to say how much we of the police service in Canada appreciate the opportunity which you are affording us of expressing our views upon the three subjects, capital punishment, corporal punishment, and lotteries, now under consideration by your committee.

That the police should be consulted when the government is considering the drafting of new laws or the amendment of existing laws is to my mind a very logical procedure inasmuch as we are the enforcing agency, and, having the experience of the application and effects of application of the criminal laws and statutes of our country, we should be able to make a valuable contribution to the deliberations of those charged with the responsibility of making our laws.

The fact that the police as a body have never previously been consulted on such matters is possibly due, up to a point, to the attitude we have frequently adopted in the past when under criticism in our respective jurisdictions in regard to the enforcement of what are termed unpopular laws, of telling our critics that the police do not make the laws—that our job is enforcing them. This could give the impression that we are not interested.

However, from time to time, in the past, the municipal and railway police of Canada, as represented by the Chief Constables' Association of Canada, have on their own made certain representations to the Honourable the Minister of Justice, by way of resolutions passed at their annual conference, in respect to suggested amendments to the Criminal Code. Just what weight may have been given to these suggestions by the government I am unable to say, but the point I would like to make here is that there has been a tremendous change in the police service in this country over the past two decades. The old type policeman, recruited for his brawn and muscle alone, has almost entirely disappeared. Educational standards for entry into the police service generally have been raised, and we have in our ranks today highly educated men, many of them with university training, men of keen intelligence, who in the discharge of their daily duties of enforcing the law, give considerable thought to the problem of crime and particularly are they interested in the effect of punishment in relation to recidivism and the incidence of crime itself. The fact too, that the police are frequently under criticism for their enforcement of laws respecting gambling, lotteries, and liquor has caused many police executives to give serious thought to the matter of the application of these laws in their communities. I feel, gentlemen, that this improvement in the standard of the police service, and the study and thought presently being given to these matters by individual officers, places us in a position where we can be of real service on occasions such as this when revision of existing laws is under consideration, and I trust that on future occasions too, the government will not hesitate to seek the benefit of our practical experience in the field of law enforcement.

Turning now to the three particular subjects with which your committee is dealing, I would advise that in so far as I am aware, neither of them has come before our association for group discussion with the idea of submitting resolutions to the Honourable the Minister of Justice, but we have on many occasions discussed them individually amongst ourselves when we have met in conference. I feel then, that any presentation I make to you today, any expression of opinion, should be regarded in the light of coming from the chief of police of the third largest city in Canada rather than as coming from the police service as a whole. True it is that I know my opinions are shared by many other police chiefs, but I also know that these subjects are



highly contentious ones, and the chances are that if they had come up for official discussion at any of our conferences with the idea of framing resolutions, such resolutions might not be unanimous.

Now in regard to capital and corporal punishment, or for that matter, any form of punishment, the police generally take the view that this matter is outside their sphere. Broadly speaking, we take the view that our specific job is completed when we bring an offender before the courts, and this point of view is entirely consistent when considered in the light of the old and long established purpose or function of the police, which is, briefly, the prevention and detection of crime, the apprehension of offenders, and the preservation and maintenance of the peace. However, it would be totally incorrect for me to say that the police are not interested in the subject of punishment. We most definitely are for the simple reason that punishment, or the effects of punishment, have a direct bearing on the effectiveness of our efforts in controlling crime. If an offender is continually brought before the court and only a mild penalty is imposed, it is our experience that this is ineffective as a deterrent, and fails to induce in the mind of the offender any desire whatever to reform and rehabilitate himself, or persuade him to turn from his anti-social activities and become a useful member of the community.

Now speaking of capital punishment, I feel I am quite correct in saying that we of the police service are not in favour of the death penalty for murder being abolished, because there is no doubt in our minds that it does act as a deterrent. Our main objection is that abolition would adversely affect the personal safety of police officers in the daily discharge of their duties. We are the people who have to apprehend persons suspected of having committed violent and vicious crimes, persons perhaps who have already taken the life of another human being. It would be interesting to know, and if time had permitted I would have tried to obtain this vital information as to the number of policemen murdered in the execution of their duty in those parts of the world where capital punishment has been abolished. I submit that it will be found the number is much higher than in those countries where the death penalty is still in effect, and this point is the main one in our submission that our government should retain capital punishment as a form of security.

It is our belief, based on our experiences of the courts that in the final analysis, the death penalty is only inflicted on those who unquestionably deserve it, that is, persons who commit premeditated and cold-blooded murder.

The report of the British royal commission on capital punishment gave statistics which showed that over the last 50 years in England, that is, from 1900 to 1949, 1,210 persons were sentenced to death. 553 of these persons were reprieved, that is, 45.7 per cent had their sentences commuted. While I have not any statistics for Canada, I would think that our ratio would be approximately the same. You will no doubt recall that in one of the appendices to this report, the short facts of 50 cases of murder which occurred between 1931 and 1950 are set out, with the result in each case. In only 17 of these 50 cases was the death penalty carried out.

We do not believe that the death penalty can ever stop murder, but it cannot be successfully contended that it has no deterrent effect or that it has not reduced premeditated murder where the principal motive has been gain. We are perfectly willing to concede that neither capital punishment nor the threat of life imprisonment will have much effect on murders committed in the heat of passion, on the spur of the moment, or under some violent emotional stress, as opposed to callously planned and premeditated murders. The figures quoted show that in the former case, the death penalty, while imposed as a matter



of law, is seldom carried out. If, however, capital punishment is abolished, then in some of the most dreadful cases where murders have been committed with the utmost premeditation and callousness, a reprieve would be automatic, and the fear of death, which we are convinced acts as a deterrent, would be removed. We are well aware of the changing times, and the progress that has been made in higher education and learning particularly but in spite of these changes the police know only too well that basically, mankind has not changed in respect to his lusts and passions, and his desire for gain. We feel that they are the same today as they were when Cain murdered Abel.

We in Canada are very proud of the high traditions of justice that have been handed down over the years to the commonwealth countries. In England, the question of capital punishment has more than once been given the most serious consideration by select committees composed of the most brilliant brains of the country in various fields as well as in legal, medical and the judicial professions. As you will know, the latest of these committees was the royal commission on capital punishment, which was set up in 1949 and presented their report in September, 1953. You are all familiar with the contents of that report, and will know that although the commission was not specifically called on to decide whether or not capital punishment should be abolished, they did decide that the present system in its eventual results was broadly satisfactory. It would appear to us that in Canada, in respect to enforcement of the death penalty, we have also reached the stage where there is little room for further limitation short of abolition. It is clear to us that the verdict of guilty, and the imposition of the death penalty is not the last word—that in practically every case where there is any sound reason for doing so, the death sentence is commuted to imprisonment; that it is almost only in those cases where there has been deliberate, premeditated, intentional murder that the sentence of death is carried out, and that murder would be encouraged, or at least not so strongly discouraged, and society endangered if capital punishment was abolished.

Mr. Chairman, briefly that is our submission on that point.

The PRESIDING CHAIRMAN: Thank you very much, Mr. Mulligan. Members of the committee may at this time wish to submit their questions to Mr. Mulligan. If so, we will start at the right, Mr. Winch.

*By Mr. Winch:*

Q. Mr. Chairman, there is one question I would like to ask Police Chief Mulligan, that is, on the basis of his statement on the commutation of the death sentence can he tell us in Canada in all death sentences how many have been commuted?—A. No, I could not give you the answer to that. I mentioned the figure 45·7 per cent. That was in Britain.

The PRESIDING CHAIRMAN: If there is any other member of the delegation who can answer that we would be very pleased to have his answer.

*By Mr. Winch:*

Q. Could I put it this way: in your last remarks you stated that if the murder were premeditated or otherwise that the sentence was death, but on other occasions it was commuted. Have you any figures for Canada on that?—A. No, I have no figures, Mr. Winch.

*By Mr. Valois:*

Q. You were saying that it is your feeling that the death penalty is definitely a deterrent. Could you elaborate and tell us if any of your actual experiences would justify you in that conclusion. I mean, on what facts are you basing that opinion, or are you basing that on any facts?—A. I have



myself worked on several murder cases in the city of Vancouver and I do not intend to go into all the details, but this is my own opinion that if there were any change in the death penalty I do believe there would be an upsurge in major crime in this country, that persons would take the risk.

THE PRESIDING CHAIRMAN: I think this is what Mr. Valois is trying to get at: is that one of the factors on which you base your statement?

*By Mr. Valois:*

Q. Yes, that is what I am trying to get at. I would be interested to know what are the facts that brought you to that conclusion that the death penalty is really a deterrent. I do not want any details, but could you illustrate that with something that happened in real life?—A. I think I see what you mean.

Q. If it is at all possible, of course?—A. Well, in my own experience in speaking with criminals in major cases, I have known many who have expressed the opinion that, for instance, if they are working on safes—that might be their particular type of criminal activity—they might have met another man who is a criminal and known to them as what they call “trigger happy”, and would suggest to them that they go and hold up a bank. That criminal would not do it for fear that there might be a shot fired and someone killed and possibly both might be charged with murder and convicted.

Q. I ask this because previous witnesses have stated that in their opinion the death penalty was not so much of a deterrent as some people thought. That is why I wanted to find out from you what were some of the actual facts that brought you to that opinion.—A. That is my opinion as a police officer, and over the years in speaking with other police officers in this country and in the United States I have found that it seems to be a general opinion amongst police officers on the North American continent.

Q. Would you have met any police officers in some states where there is no death penalty who shared that same opinion?—A. Definitely.

Q. They feel that the abolition of the death penalty in those states has, you might say, made law enforcement harder and brought about a growing scale of crimes?—A. Yes. Mr. Shea and myself are members of an international association of chiefs of police, and we meet annually, usually in cities in the United States. We have heard and taken part in discussions between American officials, some from states where there is a death penalty and some from states where there is not, and we have heard their views, and many expressed that opinion.

THE PRESIDING CHAIRMAN: This is the general opinion of police officers?

Police Chief F. W. DAVIS (Chief of Police, Moncton, New Brunswick): I have had personal experience investigating cases where there is no capital punishment. On checking with the police authorities in a city in North Dakota, we found that there were 12 men walking around there that had been sentenced to life for murder and later released, one that we were hunting for, and who had been sentenced in the United States four years before for a torture murder, and we were looking for him for another job. Taking life in that state meant nothing.

THE PRESIDING CHAIRMAN: Mr. Shea, Secretary-Treasurer of the Association and Director of the Canadian National Railways police.

Police Director SHEA: In answer to Mr. Valois' question, may I say this, based on my own personal experiences of 40 years in police work. I control four railroads in the United States. In the state of Michigan we have a big railroad, the Grand Trunk Railway, and have had in the past 27 years, I think, four murders of policemen in the city of Detroit alone, and many other close shaves by police officers.

Mr. FULTON: On your force?



Police Director SHEA: Of our own police officers in dealing with hardened criminals. In most cases they are merely stealing from freight cars. You rarely hear of a murder committed in a case of that kind. In Canada we have not lost one. The C.P.R., unfortunately, did lose one, to my knowledge, a few years ago, but I think that that was something in the dark. I do not know, but I believe there is a feeling that it was not intentional, because these fellows were in desperation trying to get away and probably shot without knowing where they were shooting, and killed a police officer. But in Detroit in the last case that I recall the man was badly beaten with the gun and after the man had been knocked down and was helpless they "gave him the works" to make sure that he was dead. In Michigan, as most of you know, there is no capital punishment. I have discussed this many times with members of the F.B.I.—with whom we work every day in the United States—and with many chiefs of police from the larger cities, and without fear of contradiction I say that those with any experience, say 10 years or more experience, would unhesitatingly agree that capital punishment is a deterrent to such cold-blooded murders.

Mr. VALOIS: I have no more questions.

Mr. WINCH: On the same line of talk, may I ask Chief Mulligan this. In view of what he said about capital punishment—and I will bring him back to our own city of Vancouver—I believe that you were chief, or if you were not chief at that time I think you were at least a chief of the detective branch, at the time of the case in the C.P.R. yard.

The WITNESS: Yes, I had been chief constable for a month when the two policemen were murdered.

Mr. WINCH: Do you make any differentiation between a case where a man of your own force is shot under a circumstance like that, in that you say it should be capital punishment, and of a boy who is driving a car at a robbery of a bank at a time when there is a murder?

Mr. FULTON: Perhaps you had better give us the circumstances of the shooting of the two policemen.

The WITNESS: In February, 1947, three young men in a car were disturbed in the act when they were about to hold up a bank in the city of Vancouver, and a general alarm went out over the police radio system. Two of our officers working in plain clothes saw three young men run down a street into the railway yards known as Falls Creek railway yards, and they went after these young fellows and stopped them to ask them who they were and find out what they were doing, and without any warning two of them drew revolvers and shot and killed both the policemen. Another detective sergeant coming along took part in the shooting and shot and killed one of these young men, and the other two were arrested and charged. Eventually one was convicted and hanged, and in the case against the other he was acquitted. He was not armed.

The PRESIDING CHAIRMAN: Mr. Fairey.

Mr. FAIREY: If Mr. Winch wanted to pursue that, I do not mind.

*By Mr. Winch:*

Q. Is there any point of differentiation between that case—which I understand very well because I was there—and a case of a man who is not in the actual holdup but a party to it in the car?—A. There was a case in Vancouver where a bank teller was held up and shot. There were four men who took part in this holdup. Three of them went into the bank and committed the holdup, and the other man was driving the getaway car, and apparently under



a previous arrangement he was to drive around a block area and was to come by in time to pick up these men. He was four blocks away from the scene when the shooting and the murder took place.

Q. He was hanged?—A. He was convicted and hanged.

Q. Is there any differentiation in your mind in cases like that as regards capital punishment?—A. In that case—I was interested in it because I took part in it—the man with the car knew the business that they were going on and he knew that the other men were armed with revolvers which were loaded. He must have known that a bank teller had guns and a murder might occur, and I think he was equally to blame with the others.

Q. Have you ever seen a man hanged?—A. It is an interesting question. I was with Mr. Winch when he saw a man hanged.

Q. That is the reason I asked that question.

Mr. MURPHY (*Westmorland*): A good thing he did not say "No"!

*By Mr. Fairey:*

Q. Police Chief Mulligan, I just want to ask this. You said that police officers who were discharging their duties would feel in greater danger in pursuing a criminal if there was no death penalty attached to the crime of murder. Would it not be just the reverse? If I was going after a murderer, and that murderer knew that if he shot me he would be hanged, would there not be a bigger safety factor for me?—A. I think that was my argument. I said that if the death penalty were removed the police would not feel quite so safe as they do now.

Q. You feel that the criminal would be more likely to take a shot?—A. We definitely do.

Mr. FAIREY: Thank you, Mr. Chairman.

*By Mr. Mitchell (London):*

Q. Chief, I was interested in the question which Mr. Winch carried a little further. From your remarks, do we gather that you favour introduction of a system whereby there are various degrees of murder?—A. No, sir, I do not believe that I would be interested in different degrees of murder.

Q. In other words, those committed in the heat of passion you do not consider, as far as murder itself is concerned, any different from those that are premeditated, cold-blooded murder?—A. We do make a distinction, and we think that the courts in our land today take that into full consideration.

Mr. FULTON: You mean the juries?

The WITNESS: Yes, the juries.

The PRESIDING CHAIRMAN: And the Minister of Justice?

The WITNESS: Yes, the Minister of Justice too.

*By Mr. Mitchell (London):*

Q. In other words, you agree with the retention of the present method of commutation and/or reduction of charges from murder to manslaughter?—A. Yes, because we know that when the conviction is registered that does not mean the end of the case or that the man is going to be executed.

Q. Just one other question. I understand that in British Columbia you have a central place of execution, whereas in Ontario, for example, the executions take place where the crime was committed. Have you any comments on that as it affects the community? We have heard much in this committee as to the effect of executions on the stability and the reactions of the community at large.—A. In my career as police officer in Vancouver, there have been some spectacular murders, and I have always been very much interested in the state

of the public mind. We find that immediately following a murder the public are most helpful and we are flooded with information, tips, clues and ideas as to where we can find the person responsible.

The PRESIDING CHAIRMAN: Is that typical of British Columbia?

The WITNESS: British Columbia.

Police Director SHEA: I think it is typical of Canada.

Mr. WINCH: Perhaps Chief Davis can speak for the maritimes.

Police Chief DAVIS: I think it should be more stabilized and centralized.

The WITNESS: We try to apply this information intelligently and arrest the offender. Then there is a change in the public reaction. Immediately upon the completion of the trial there is a psychological change towards sympathy. But we have found that shortly afterwards the public very quickly loses interest and then looks for something else to come along, the next item of interest. Personally, we do not find any difference in the attitude of the public generally, following an execution or the conclusion of a murder case.

Mr. MITCHELL (*London*): I wonder if Chief Davis of Moncton would give us his reaction because, as I understand it, in New Brunswick executions are carried out in the same manner as they are in Ontario?

Police Chief DAVIS: Yes. Speaking from my experience, in western Canada they executed only at provincial jails, but in New Brunswick they are split into small communities and the sheriff is responsible, and they are very reluctant down there to erect a scaffold, and it invariably has to take place in the jail yard, sometimes adjacent to the houses where people live. I have always felt it should be centralized. If we have not a provincial jail, it should be in the penitentiary.

The PRESIDING CHAIRMAN: How about the families of the murderers? Should they be taken into consideration, do you think, when the body is to be released for burial?

Police Chief DAVIS: Yes.

The PRESIDING CHAIRMAN: Or should it not take place in the community where the trial takes place and the offence occurred?

Police Chief DAVIS: No.

The PRESIDING CHAIRMAN: And probably where the accused resides?

Police Chief DAVIS: I am thinking of the antiquated set-up in the different counties. We do not hang many murderers in the maritimes. The people there are law-abiding. But when we do we have to erect a scaffold. We have had two occasions in the last ten years there, and it is quite an outstanding event in the maritimes because the problem is that we have no facilities.

Mr. FULTON: You have had experience under both systems, I understood you to say?

Police Chief DAVIS: Yes.

Mr. FULTON: With respect to its effect upon the community and what I might call its neatness and desirability, which would you say was the more desirable method?

Police Chief DAVIS: The most desirable is to have it in a government institution. If you have not a provincial jail, it should be in a penitentiary.

The PRESIDING CHAIRMAN: In a central place?

Police Chief DAVIS: Yes.

Mr. FULTON: Would you go so far as to say that having it in a local jail has an undesirable effect on the community where it takes place, in that there is a certain morbid curiosity and perhaps even some permanent or semi-permanent effect on the mentality of some of the people in that community?



Police Chief DAVIS: Quite definitely. I have heard of cases where the sheriff threatened to resign his position if he had to carry out the hanging.

Mr. FULTON: I was thinking more of the effect on the community, because there has been a suggestion in this committee that it had a bad effect on the community.

Police Chief DAVIS: It would certainly have no good effect.

Police Director SHEA: Could I clarify that slightly? I think that the localities that Chief Davis speaks of do not lend themselves to it generally as does, for example, Bordeaux jail at Montreal, which is secluded from homes. It has a large wall around it and is a big institution, whereas in New Brunswick you have a number of small buildings. Some of them, I know, were originally dwellings, with a small yard, and perhaps a tenant living nearby could see into the jail yard, and it has a very morbid effect on children and teen-agers. If it were otherwise, I do not think the authorities would exclude the public from these hangings. It is not really a public hanging.

*By Mr. Winch:*

Q. May I ask Chief Mulligan a question? He and I saw the same hanging. Outside a capital punishment, what was your reaction, Chief Mulligan, at that hanging?—A. My reaction as I watched the proceedings was that in my career as a policeman I would be very careful in giving evidence that nothing I might say or do would affect adversely any person.

Q. What was your reaction to that type of execution?—A. I thought it was over very quickly. I thought it was done speedily and efficiently.

The PRESIDING CHAIRMAN: What Mr. Winch is trying to get at, I believe, is this: Do you think, if there is to be capital punishment, that it should be by hanging, or electrocution, or some sort of gas chamber or otherwise?

Police Chief MULLIGAN: At the time my opinion was that it was done speedily and efficiently. Personally, and as far as the police are concerned, I do not figure it is a matter for us as to the method of execution.

Mr. MURPHY (*Westmorland*): You wouldn't say it was pleasant, of course?

The WITNESS: Certainly not a pleasant experience.

Mr. FULTON: May I ask Police Chief Mulligan this? I understood you to say that in your opinion capital punishment definitely had a deterrent effect and that you based that opinion partly on conversations with criminals and that they themselves had expressed to you in one form of words or another the opinion that that was the case. Now, as I recall it, you gave us an example of one man with criminal tendencies who might refuse to associate himself in a crime with another criminal because he felt that there might be a murder as the result. Would it follow from that that in your opinion not only does the existence of capital punishment deter possible murders, but also deters possible crimes?

The WITNESS: I think it does, because we have epidemics of major crime and they are seasonal—that is, in our jurisdiction. In the winter months, with the long nights of darkness, crime increases. I feel that if capital punishment were abolished entirely we would have a great deal more crime.

The PRESIDING CHAIRMAN: Would you say that there is more crime in the winter than in the summer?

The WITNESS: In my jurisdiction, yes, very much more.

*By Mr. Fulton:*

Q. Can you say whether the existence of capital punishment in your opinion prevents some criminals from carrying guns and therefore from becoming potential murderers.—A. Definitely.

Q. In other words, they do not carry a gun because some of them in a moment of heat or excitement might use it?—A. Yes.

Q. Have you had any conversations with criminals on which you base that opinion?—A. Yes, I have had conversations with criminals with long records of criminal activity who expressed that view.

Q. Just for the record, I assume by the fact that the other gentlemen who are here have not indicated any different point of view that they do in fact agree with everything Police Chief Mulligan said in his presentation?

Police Director SHEA: I would say yes up to the present time.

Police Chief DAVIS: It has been my experience in talking to ex-convicts that there is a certain type who will not carry a gun on a job for that very reason. A good wise con will not carry a gun for the reason that if he gets caught on a job in the first place and he has no gun, he cannot get into more trouble.

*By Mr. Faurey:*

Q. Would you say that the same thing was indicated by those who carry a dummy gun?

Police Chief MULLIGAN: Yes.

Q. They carry it so as to say that they are not armed?—A. In 1948 the Chief Constables' Association met at Vancouver and I laid on the table a realistic toy gun and pointed out that in Vancouver we had had 22 holdups where realistic toy guns had been used, and I moved that the manufacture and sale of realistic toy pistols be banned. The press made rather a joke of it.

*By Mr. Fulton:*

Q. There have been expressions of opinion here that if capital punishment should be retained that there should be a different method. Have you any opinion to express as to the different methods of capital punishment from the point of view of its connection with the deterrent effect?—A. I do not think that we are interested in the method of execution.

The PRESIDING CHAIRMAN: No. It is the method.

*By Mr. Fulton:*

Q. The method. Do you think it is the death penalty that is the deterrent and not the method of execution?—A. I do.

Police Chief ROBERT: I agree with Police Chief Mulligan on that, that the death itself is the deterrent, not the method used.

The PRESIDING CHAIRMAN: The question is have you any view as to the method?

*By Mr. Fulton:*

Q. My question is, do you think if we are going to keep capital punishment that it would have a more deterrent effect if done by hanging or by some other method? Or, is it immaterial in your view?—A. I think it is immaterial.

Mr. MURPHY (*Westmorland*): I want to direct my question to chief of police Davis so that his opinion as to matters that we are discussing of the Maritime provinces will be on record here. Chief Davis, you spoke of a central place of execution. As you know, in New Brunswick the number of murders is very very few. What would you suggest as a central place of execution? Would you have in mind the maritime penitentiary?



Police Chief DAVIS: Yes.

Mr. MURPHY (*Westmorland*): In New Brunswick, and especially in your district, do the policemen carry guns?

Police Chief DAVIS: No. They have them but they do not carry them.

Mr. MURPHY (*Westmorland*): You might say that in New Brunswick neither the criminals nor the police carry guns?

Police Director SHEA: That is not true of all police.

Police Chief DAVIS: We can never tell whether the man we apprehend is armed or not. It does happen but not very often.

Mr. MURPHY (*Westmorland*): Respecting the recent murders in New Brunswick, how were they committed, by gunfire or otherwise?

Police Chief DAVIS: Otherwise.

The PRESIDING CHAIRMAN: How otherwise?

Police Chief DAVIS: Assault.

Mr. WINCH: What do you mean by assault?

Police Chief DAVIS: Weapon—fist, piece of wood or iron.

Mr. FULTON: Beating. In other words, beating to death.

Police Chief DAVIS: Any available weapon that is handy.

Mr. MURPHY (*Westmorland*): The maritime penitentiary is situated about 20 miles from Moncton and you have an opportunity to talk with a great number of those who are discharged from the penitentiary?

Police Chief DAVIS: Yes.

Mr. MURPHY (*Westmorland*): Would you say that from your conversation with them that the deterrent effect of hanging is the same as Chief Mulligan has set out for the rest of Canada?

Police Chief DAVIS: I would.

Mr. MURPHY (*Westmorland*): It bears it out in our own penitentiary down there?

Police Chief DAVIS: Yes.

Mr. MURPHY (*Westmorland*): You would go as far as to say that our murders in New Brunswick are accidental; they are not planned as gang murders or hold-ups?

Police Chief DAVIS: I would say this, on account of my experience across Canada in police work, that there is no organized crime in New Brunswick.

Mr. MURPHY (*Westmorland*): Thank you, chief.

Police Director SHEA: Mr. Chairman, might I add something to the question where the matter of degrees of murder was mentioned. I make a point of reading cases I am interested in in the United States. I read maybe 10 or 15 cases a month—some of them the most atrocious murders—from the state and federal courts, and I find that in the United States they will get pleas of guilty to second degree murder simply because the prosecutor says that it is going to save the state money and the prosecutor will say “now, of course a jury might let him off, we might lose”. So, a smart lawyer usually says, if he feels that they have the goods on this fellow, “take the plea on the second degree murder” with a view of getting him out in 8 or 10 years. We do not have such a thing in Canada and I think that that is a deterrent to crime. If a man wishes, he could plead guilty and maybe get out in 10 or 15 years earlier with good conduct. They have all kinds of those cases in the states. We do not have those in Canada. I think that capital punishment is the deterrent.

Police Chief DAVIS: When a verdict of guilty is brought by the jury, it is well known that the judge of the court is required to submit a brief to the

Attorney General and the investigation officer is also requested to make a full report in view of any clemency, which might be asked for, and I understand that the whole matter is examined by the Attorney General, and the judge's report and the police officer's report go in and I think that they judge in Ottawa whether that should be commuted to life sentence or not.

Mr. LUSBY: I would like to address my questions to Mr. Mulligan, but there is one question to Police Chief Davis. You said that there is no organized crime in New Brunswick. Do you think you could extend that to the Maritime provinces generally?

Police Chief DAVIS: Are you asking me to speak for Halifax and Saint John?

Mr. LUSBY: Covering the whole maritimes.

Police Chief DAVIS: Yes. My experience in other parts of Canada indicates to me that there is no organized crime in the maritimes.

Mr. WINCH: And there is no organized crime in British Columbia. It is just crime.

Mr. FULTON: Would that apply also in our seaports in respect to such things as dope smuggling which do not, I think, come under your jurisdiction?

Police Chief DAVIS: I was not thinking of offences against federal statutes. I mean rackets and what have you as organized crime.

Mr. WINCH: You say that there is no organized crime of the capital punishment type in New Brunswick. I would like you to tell me whether there is any organized crime of the capital punishment type anywhere in the North American continent?

Mr. MURPHY (*Westmorland*): "Murder Incorporated".

Police Director SHEA: There was the case of two men who were up on a murder charge and were freed, and we also had a case against those two men for very serious theft. Practically the day that one man was freed from a murder charge, he was murdered, and from the little I know of this case—we worked with the R.C.M.P. and the provincial police on this—it was organized; these are known criminals. This one chap who was murdered had got away to the States and come back. It was an organized crime, I think, where they all got together and said "let us kill Jim Brown or something like that".

The PRESIDING CHAIRMAN: Did you say Brown!

Police Director SHEA: I will make it Smith. I think that they are more or less an incorporated organization, but I believe they co-operate in crime if it suits their purpose. I think that that would come under the heading of organized crime. We do not have too much of it, but we do have some organized criminals, who might from time to time not only commit crimes like theft, but it may lead to capital punishment later on.

Mr. MURPHY (*Westmorland*): What I mean by organized crime is crime of the capital punishment type by hired killers which Mr. Shea spoke about.

Police Director SHEA: Not particularly that, but where they have got to get rid of a member of a gang, because of what he knows or some such reason.

Mr. FAIREY: I think that it is regrettable that we should have it on the record that there is no organized crime in certain parts of Canada. I think it would leave the impression that there is organized crime in other parts of Canada. I do not think that is what we are here for.

Mr. LUSBY: I think that there is some relevance in this because obviously the situation is not the same in small centers as it is in big cities. That is why I wanted to ask Police Chief Mulligan a few questions about the situation in Vancouver, what incidence there was of crime accompanied by murder and that sort of thing.



Mr. WINCH: Will you also add this to your question because it ties in with exactly what you are asking: Police Chief Mulligan has been chief now for eight years—

The WITNESS: This is my eighth year.

Mr. WINCH: And you were before that head of the detective branch?

The WITNESS: Yes, for two years.

Mr. WINCH: In answering the question of my friend here, in the murders that have come to your attention in Vancouver as chief and as head of the branch, how many crimes of passion—

The PRESIDING CHAIRMAN: Is this the question you are going to ask?

Mr. WINCH: It ties in with Mr. Lusby's question.

*By Mr. Lusby:*

Q. I was going to ask how it ties in with large centres and how many were bold brutal murders?—A. The majority of charges of murder in Vancouver in the last few years have been crimes of emotion or passion, and not premeditated.

Mr. WINCH: That is very important.

The WITNESS: And I would like to point out that in the last few years the average number of murders have been 3, which I think speaks very well for the community in a city with such a large population. Some years ago we had 7 murders in one year, and I pointed out in my report to the Board of Police Commissioners how these had taken place. For instance, in one place a woman had committed suicide and had killed her own child by gas, and in two of the other cases men had killed their wives and committed suicide themselves.

*By Mr. Winch:*

Q. Now, in your 8 years as chief and the two years before that in charge of the detective work, as far as you can remember how many were actually cold-blooded murders, how many just in emotion, passion or jealousy or a fight on the street. Have you any approximation of that?—A. I would say that less than half were premeditated crimes. The majority of them were crimes of passion committed in heat or emotional stress.

Q. Following on that, they were so found guilty of murder, and were they hanged?—A. No. I do not know of any of that nature myself, of passion or emotion or stress, that were hanged. The only ones on whom the death penalty was carried out to my recollection, were ones of premeditated planned murder.

Q. Is it proper for you, Chief, to give to this committee after your return to Vancouver a report of these cases?—A. I would be very glad to. I am going to quote if I may from our annual report of murders in Vancouver: "in 1953 there were 3; in 1952 there were 3; in 1951, 2; in 1950 there were 2; in 1949, 5; in 1948, 7; that was the year I was referring to where the men had committed suicide; in 1947, 6; in 1946, 6; in 1945, 5; in 1944 there were 7.

Q. Of those how many were hanged?—A. I have not that figure but I will be glad to send that information to you for that ten year period.

*By Mr. Lusby:*

Q. Have you any idea how many unsolved murders there would be in your city as compared with those?—A. I would be glad to include that information also.

Q. You have not had any actual police experience in the United States, have you?—A. None whatever. My experience has been in Vancouver.

Q. But you have had I suppose a good deal of inter-change of ideas with American police chiefs?—A. Yes. We work in very close association with the city of Seattle and Washington state.

Q. Is capital punishment retained in that state?—A. Yes, in the state of Washington.

Q. Have you any idea from the conversations you have had with the police there how great an incidence of murder there is there?—A. I would only be hazarding a guess and I do not want to do that.

Q. Do you have any trouble in Vancouver with American criminals coming over? That is, what I might call professional types?—A. Very very isolated.

Q. If the death penalty were abolished in Canada might it lead to some professional American criminals coming over the border and committing crimes here in which murder might be the outcome? Do you think if the death penalty were abolished in Canada that there would be any likelihood of the American criminals coming over to Canada?—A. I would not think so.

Q. That has been suggested as a probable result of the abolition of the death penalty in Canada?—A. I would not think so.

The PRESIDING CHAIRMAN: We have some statistics on prisoners executed under civil authority in the United States in the State of Washington if that is of any assistance to you. I do not think it would be without some further study. This is a document of national prisoner statistics of the Federal Bureau of Prisons in Washington, D.C., showing executions for 1953. This is No. 10, March, 1954. This will be distributed and members of the committee will have an opportunity of studying it.

Mr. LUSBY: I suppose that does not show the numbers of murders with convictions as compared to unsolved murders.

Police Chief DAVIS: I think it should be on the record that I do not agree with Police Chief Mulligan on that answer.

Mr. FULTON: Which one?

Police Chief DAVIS: About the death penalty in Canada affecting the criminal in the United States, I think there is clearly an indication of it being detrimental. I know they fear Canadian law on the other side.

Mr. FULTON: You feel that the abolition of the death penalty might result in an influx of criminals in Canada?

Police Chief DAVIS: Yes, definitely.

Mr. WINCH: If that is your opinion then why do not the criminals of the United States go into the states of the United States where they have not that penalty, because the records show that there is no higher rate of homicide in the states in the United States where they do not have that penalty than in the states where they have it. Why do they not move into those states?

Police Chief DAVIS: I would like to see those records. I believe that the states that have no capital punishment have more convicted murderers.

Mr. WINCH: It is not on the record. The record is entirely opposite.

The PRESIDING CHAIRMAN: What record are you referring to?

Mr. WINCH: All the submissions made before the commission in Great Britain showed that the states in the United States of America that have no capital punishment have not a higher but have a lower rate of homicide than those where they have not the penalty. So that in view of that statement made here that the witness thinks the abolition of the death penalty in Canada would bring criminals into Canada, why have they not moved into their own states where they do not have capital punishment?

Police Director SHEA: In the states we know as a fact that it is much easier, for instance, to get a man away on an insanity charge in the United States than here due to the fact that they do have degrees of murder. I



would doubt the authenticity of records that show it because we know that there are a lot of unsolved murders and I wonder if they are giving the ones that are actually caught. I think that the records in Canada would show a better picture generally than those in the states because we do know in the states they have organized crime. I have had the pleasure of entertaining one of the most distinguished justices, Justice Kavanagh in the United States. I brought him over to talk in London, Ontario, some years ago, and he had visited all the penal institutions practically in Canada, Europe and the United States, and was a man of vast experience, and in discussing these things with him, I would say that the views I have already expressed and the views Chief Mulligan expressed today would be identical with the views he had. He was in Cook County, Illinois, and he felt that at the height of the bootlegging days, if they had not had capital punishment there that the picture would have been much worse than what it was.

*By Mr. Blair:*

Q. Chief Mulligan, in some of the earlier discussions we had here there have been questions asked about the effect of the death penalty on juries. The suggestion has been made, because there is a mandatory death penalty, juries sometimes shrink from convicting a person of murder in a proper case. I was wondering whether you or your colleagues would like to comment on that subject?—A. My experience has been, in cases I have been personally involved in and cases I have listened to, when evidence is adduced before a jury in a murder trial and it is overwhelming evidence, they do not hesitate to convict and find the accused guilty.

Q. You mentioned in the course of your remarks that in some types of cases where passion or emotion was a factor in the homicide that this was taken into account by juries. You would not regard that as being a perversion of the law?—A. No.

Mr. WINCH: Mr. Chairman,—

The PRESIDING CHAIRMAN: Let Mr. Blair finish.

Mr. WINCH: On the same phase. I think it is an important one that ought to be cleared up now. It is made very pertinent now as a result of a case of contempt of court in Vancouver in which "The Province" was fined \$2,500 and counsel was fined \$250. Is it not correct that the jury only has to decide, not the penalty, but as to whether or not the person actually committed murder. That is the only decision.

The WITNESS: That is correct.

Mr. WINCH: No other decision?

The WITNESS: No other.

Mr. FULTON: Except that the jury can find that he did not commit murder, but did commit manslaughter.

The WITNESS: And the judge would so direct in his charge probably.

Mr. FULTON: Yes.

Mr. LUSBY: And they may recommend leniency.

Mr. BLAIR: Your position is that a jury knowing a man convicted of murder may be hanged, do not allow that to affect their judgment?

The WITNESS: No.

Police Chief ROBERT: I do not agree with Police Chief Mulligan on this point. The jury is influenced due to the fact that they know the penalty being imposed by the court will be death especially when there has been passion. I can cite two cases of murder, one by a sexual pervert, at which

the verdict of the jury was reduced to manslaughter, although it was a clear-cut case of murder, and the second one a homicide of a father by the son, who shot five or six bullets at his father in a public house. Although they were plain and clear, there was some sympathy on the part of the jury and they brought in a verdict of manslaughter. There is a third case that I could refer to.

Mr. FULTON: Excuse me, there. Would that not be on the basis of a defence of provocation?

Police Chief ROBERT: No, because the first murder I am telling you about—

Mr. FULTON: I was thinking particularly of the second one.

Police Chief ROBERT: The first was by a sexual pervert. He met a girl in a certain hotel in this city and brought her over to our city. After having had sexual intercourse with her he killed her, by strangling her to death, and the verdict of the jury was manslaughter. The second case I referred to was a shooting in broad daylight. The third one I referred to was committed after two members of the air force had met a certain gentleman in a night club and were taken home by him, but on their way home they robbed him and "knocked him off"—booted him to death almost—and when they went over the bridge they threw his body into the river. Owing to the fact that these two men were members of the armed forces, the jury brought in a verdict of manslaughter.

Mr. FULTON: In the second case you referred to, did I misunderstand you? I understood you to say that the son had shot at the father and then later the father killed the son.

Police Chief ROBERT: No, it was the son that actually fired at his father and killed him.

The PRESIDING CHAIRMAN: What was the reason for shooting his father?

Police Chief ROBERT: Disagreement in the home. The defence brought in that the father had been a drunkard all his life and that there had been strong disagreement in the home, and in fact the son had left home five or six months previous to the crime on account of this disagreement between him and his father, and of course the mother and sisters came in and told the jury a long story.

Mr. FULTON: In each one of these cases there would be present some element—in two of them, perhaps—of suggestion of that long history preying on the mind.

Police Chief ROBERT: In that second case I will admit that.

Mr. FULTON: In the third case, the sympathy, whether natural or not or misplaced or not, with the members of the armed forces; and in the first case, I take it, a definite suggestion of mental disorder—you used the words "sexual perversion"?

Police Chief ROBERT: Yes.

Mr. FULTON: There were what I might call complicating factors present in each one of those cases, were there not?

Police Chief ROBERT: Correct, sir.

Mr. FULTON: Your point was that the jury gave its recognition to the presence of those factors by bringing in a verdict of manslaughter instead of a verdict of murder. We have had other witnesses here who said that rather than create degrees of murder we should leave the law as it is at present and leave it to the jury. If it felt that there were any mitigating circumstances it would give recognition to that feeling by making its verdict manslaughter rather than murder.



Police Chief ROBERT: I would not agree with that. I am strongly in favour of the present system that we have.

Mr. FULTON: That is what this witness suggested.

Police Chief ROBERT: But, of course, that is something that cannot be avoided. The members of the jury know exactly the circumstances of the case and we cannot prevent their attitude from influencing their verdict. Even with its faults, I am strongly in favour of the present system. I feel sincerely that the duty of the jury is to find the accused guilty or not of murder with the possibility that the Minister of Justice or the committee, or whoever is in charge, could deal with the case.

Mr. FULTON: By commutation.

The PRESIDING CHAIRMAN: Would that not favour wealthy people? It takes money to appeal all these cases.

Police Chief ROBERT: No. In some of those cases they were not wealthy.

Mr. FULTON: It takes no money to appeal to the Minister of Justice for clemency.

The PRESIDING CHAIRMAN: Lawyers take money.

Police Director SHEA: To my mind there would be a vast difference in a local jury making up its mind to be sympathetic towards a boy like that or the two air force boys. I do not know, but there may be members of the jury who are naturally sympathetic, rather than being opposed to capital punishment. I think that it is presumptuous to think that just because they did not give a verdict of guilty they were opposed to capital punishment. I think there is a vast difference.

Police Chief DAVIS: I would agree with Chief Shea in that connection. In my experience juries, if they do have any sympathy at all, generally express it when they bring in a verdict of guilty. They generally add a strong recommendation of mercy.

The PRESIDING CHAIRMAN: Mr. Blair wishes to ask a question.

Mr. BLAIR: My questions are less important than those of the members of the committee if they want to follow this up.

Mr. LUSBY: I just wanted to ask this. Do you know of a case in which, in your opinion, the jury acquitted a man altogether of a murder charge, in which you think the fact that the penalty for murder was capital punishment would lead them to do so? In other words, would they have acquitted a man altogether because the charge was one in which, if they convicted him, he would be sentenced to be hanged?

Police Chief ROBERT: Just for that simple reason?

Mr. LUSBY: Yes.

Police Chief ROBERT: I do not know of any such case.

Mr. LUSBY: In other words, when a verdict is manslaughter it sometimes means that for some reason the jury does not consider the case one in which capital punishment should be inflicted, but they bring in a verdict of manslaughter so that the man can be punished.

Police Chief ROBERT: May I add this? I do not mean to say that any members of the jury at those three trials I have mentioned gave such verdicts because they were against capital punishment.

Police Director SHEA: That is what I had in mind.

Police Chief ROBERT: They are definitely not. I was following up the question by Mr. Blair to the effect that the jury may be influenced by their own attitude or sympathy towards the accused.

Mr. FULTON: That is what juries are for, is it not?

Police Chief ROBERT: Yes, I wanted to point that out.

The PRESIDING CHAIRMAN: Mr. Murphy is trying to get in here.

Mr. MURPHY (*Westmorland*): I wanted a comment from the panel. I had started to build up by asking questions about certain sections of Canada, and the maritimes are a section particularly free from organized crime in respect to the subject we are talking about. It is suggested—that is not what we were discussing—but if we find that in certain parts of Canada there is less crime punishable by capital punishment, less murder, then there must be a reason for it. I have heard and read that the best places for criminals to hide are in large cities. In rural types of areas such as the maritimes, with small towns and cities, if a crime is committed there is only one road out, or two at the most, and there is very little chance of getting away. Our courts are not as busy as they are in other places, and the criminal is speedily dealt with. Our juries in the maritimes are not in the least spleeny about bringing in convictions for murder, and the criminal is hanged. It means that there are more unsolved crimes in the larger centres, more organized crimes. I know this personally. I read very often in my home-town newspaper that a former New Brunswick man is charged with murder in Quebec, Montreal, Vancouver or elsewhere, because, having acted rough where he comes from, he has left to go where it is more difficult for the police to find people in these larger cities. It would seem, then, that the death penalty is a deterrent to the committing of murder and that if the people who commit murders in larger cities and other districts could be as speedily caught and dealt with—personally I do not blame the police for it nor do I say that the record of those areas is black, but it is probably because many people from these other districts went there—would that not prove to you, gentlemen, that the death penalty is a deterrent to murder and other crimes punishable by death?

Police Chief ROBERT: Yes, we will all agree to that.

Mr. MURPHY (*Westmorland*): That was my idea for building up that case.

Police Director SHEA: That is a matter of population and, as you say, places to hide or escape.

Mr. BLAIR: I would like to interrupt a question at this point to mention this. We have been joined by Chief MacDonell of Ottawa.

The PRESIDING CHAIRMAN: He is on the record as being here.

Mr. BLAIR: Mr. Mulligan, there is one question relating to a question of Mr. Lusby's. I think that the answer is probably clear on the record, but I would like to establish it. Sometimes it has been suggested that, because of the death penalty, murder trials are conducted on a different basis than other criminal trials and that there is a lower percentage of convictions for murder or manslaughter on murder charges than there would be on charges for other offences. I wondered if the panel would care to comment on that?

Police Director SHEA: Do you think that is so?

Mr. BLAIR: I am suggesting this as something which is sometimes said about charges for murder, that the percentage of convictions is lower than in cases of other crimes.

Police Chief MACDONELL: I would not think so.

Police Chief DAVIS: A police officer investigating a case of murder certainly goes out of his way to be fair, and he does not make an arrest, talking from my own experience, unless he is reasonably sure in his own mind that he has a case.

The PRESIDING CHAIRMAN: Mr. Davis, when hanging has taken place as a result of murder, is there any continued investigation made after the hanging?



Mr. WINCH: As to whether he is innocent or guilty?

The PRESIDING CHAIRMAN: Any continuation of the investigation?

Police Chief DAVIS: After the sentence the police officer is usually requested to make a full report, which is forwarded to the Minister of Justice.

The PRESIDING CHAIRMAN: Is there any continued investigation as to whether there could be some mistake?

Police Chief MULLIGAN: I would say "No", unless some information is received. If we had any doubts, we would bring them to the attention of the court before the sentence was carried out.

The PRESIDING CHAIRMAN: The suggestion has been made in this committee that there may have been mistakes made, particularly in one province of Canada—I think it is Quebec. That is why I asked the question. Supposing, now, after a hanging you get some further evidence that there might have been a mistake, what is done in a case like that?

Police Chief MULLIGAN: After the police received that information they would immediately bring it to the attention of the prosecutor and the attorney general would be notified by him and there would be a complete investigation made of that information.

Mr. BLAIR: To tie that down, in view of the suggestions made, we might ask these gentlemen if they or their association are aware of any case where an innocent man might have been hanged in this country.

The WITNESS: I do not know of any.

Police Chief DAVIS: I do not.

Police Chief ROBERT: I do not either.

Police Chief DAVIS: But I will say that there have been cases where the charge has been reduced to manslaughter and it should not have been, in my opinion.

Mr. FULTON: Should not or need not?

Police Chief DAVIS: Should not.

The PRESIDING CHAIRMAN: It should have been murder, and he should have hanged?

Police Chief DAVIS: Yes.

Mr. WINCH: Are there cases where it has been called murder, and you think that it should have been called manslaughter, sentence was given for murder, and in your estimation it should have been for manslaughter?

Police Chief DAVIS: No, I have not heard of it. It is the other way around.

The PRESIDING CHAIRMAN: What he is asking is this: Do you know of any cases that have been murder and you think that they should have been manslaughter?

Police Chief DAVIS: No.

Mr. BLAIR: My next question has to do with the method of sentencing. At the present time the death penalty is mandatory. Once the person is convicted for murder the death penalty is automatically imposed. Have any of you given consideration to the exercise of discretion in the award of the death penalty, as to whether it should be either death or a sentence of imprisonment; and if so, whether that discretion should be exercised by the judge or the jury? Do you see any merit in a proposal of that kind?

Mr. MURPHY (*Westmorland*): That is not quite a question, Mr. Blair, for the police officers.

Police Director SHEA: What my view would be, Mr. Blair—and I am sure the view of most police officers—is that it ties in with our present system of capital punishment. It is a deterrent because they know it is there. It is

out-and-out murder, and the chances are that it is going to mean hanging, whereas if it were left to the judge or the jury to decide whether he should go to the penitentiary or should be hanged, there would be that great chance that he could get off. With that it would go back to the United States system, where they have degrees of murder.

Mr. WINCH: You would hang a man and that is all?

Police Director SHEA: Yes.

The PRESIDING CHAIRMAN: Perhaps we could get to the question of corporal punishment.

Police Chief ROBERT: There was a question raised right at the beginning, I believe, and I do not want to pass it up. I believe that one of the members of the committee asked about the degree of danger to police officers in the discharge of their duties if the death penalty was abolished. Mr. Mulligan answered that of course it would be worse for police officers to arrest men wanted for murder or any serious crime. I believe that some gentleman asked that.

Mr. FAIREY: I just wanted to clarify it.

Police Chief ROBERT: May I point out that at first sight it may not look right, but it is. If the death penalty were abolished, our jobs would be just as dangerous if not more so. Police officers have been killed recently in making arrests of criminals. Those criminals were not wanted for murder. May I just cite a case in Toronto, Suchan and Jackson, who were wanted at that time for armed robbery only, for which there is no death penalty. However, they shot a detective. I just wanted to mention that because I did not know whether it had been mentioned.

Mr. WINCH: The very question I was going to ask before. We have here now chiefs of police from the Atlantic to the Pacific. Outside of sentiment on capital punishment, with all the horror that it means, I did want to ask this question, and ask each one of the chiefs if they would answer it. If there was no capital punishment in Canada, do you feel that it would mean a greater risk of life on your men who have to enforce the law?

Police Chief MULLIGAN: I do.

Police Director SHEA: Definitely, yes.

Police Chief DAVIS: I would say so.

Police Chief ROBERT: I agree with that. We all agree with it.

Mr. LUSBY: If a police officer were chasing a man who had committed a murder, do you not think it would be possible that he might be more likely to shoot in order to avoid an arrest than if he knew that he would not be hanged?

Police Chief ROBERT: Not necessarily, sir, as I just pointed out.

Mr. LUSBY: I am speaking of a case where a man knows that if he were caught he would be hanged, not in other cases.

Police Chief ROBERT: Even for murder, sir.

Mr. WINCH: Not murder. If you have caught a criminal in the act and he knows that if he is caught he will be hanged, he may shoot.

Police Chief ROBERT: Definitely. An experienced criminal will not shoot a police officer.

Mr. WINCH: If he shoots, he will be hanged?

Police Chief ROBERT: Definitely it would be a deterrent to him.

Mr. WINCH: Since the man is a criminal—and we all say he is a criminal—is he not more likely, if he knows that he will be hanged, to shoot? He will not shoot if he knows that he will not be hanged but go to jail? What is your opinion of that?



Police Chief ROBERT: That was exactly the same question as was asked at the beginning.

Mr. FAIREY: May I explain what I was after? If we had no capital punishment at all, and a police officer is after a criminal for any charge whatsoever, then he is free to shoot that policeman, knowing full well he will not hang for it.

Police Chief ROBERT: Definitely.

Mr. WINCH: If he knows that if he shoots he might escape, and if he is caught he will hang?

Police Chief ROBERT: Then that will probably stop him from shooting. That is exactly what I wanted to bring out.

Mr. FAIREY: He will not shoot if he knows he will be hanged.

Mr. FULTON: I think we are getting at complete cross purposes. I think we are confusing the record. It is already somewhat confused.

Mr. BLAIR: I think that in fairness to the witness it should be recalled that Chief Mulligan made that point right at the outset.

The PRESIDING CHAIRMAN: That is right.

Mr. FULTON: There is surely no question but that all this panel of the chiefs of police are agreed that to eliminate the death penalty for capital punishment would increase the risks to their forces in enforcing the law.

Police Director SHEA: Not solely to them; to society generally as well as the police.

The WITNESS: But we are concerned with the safety of the police officers in this country.

The PRESIDING CHAIRMAN: Did you have a question Mr. Lusby?

Mr. LUSBY: I did not quite get that cleared up. I was trying to draw a distinction between the case where a police officer is endeavouring to apprehend a man for a crime—not a capital crime, a crime for which he could not be hanged—and in which case if he shoots the officer he is then incurring the risk of hanging that he would not have incurred before; between that case and the case where the officer is endeavouring to apprehend a man for a crime for which, if caught, he will presumably be hanged. I cannot see why he should not shoot the officer and hope to escape.

Mr. BLAIR: It is the difference between, let us say, a murder and a robbery.

Mr. LUSBY: A man who committed a capital crime.

The PRESIDING CHAIRMAN: Is there any comment to be made by the panel on Mr. Lusby's question?

Mr. WINCH: There is a question—

Mr. FULTON: Let us get this one first. Otherwise we will get this confused again. I have to raise a point of order here. In fairness to the witnesses and the committee, we should have one question answered before another is asked.

The PRESIDING CHAIRMAN: I thought that you were trying to get Mr. Winch's question in.

Mr. FULTON: No.

The WITNESS: I would say in answer to that question that it would be a natural conclusion that he would not take that chance of shooting at a policeman and of being caught and hanged.

Police Director SHEA: Take the chance of being hanged, he means.

Mr. WINCH: With all due deference to Mr. Fulton, I still think that this matter is a little confused. I was wanting an answer on this very subject, and I am afraid that he has rather confused the issue. The question is this,

and I will put it as clearly as I possibly can. Is there a greater degree of danger to a police officer in Canada if the law provides that if a man is caught and shoots he will be hanged, but he knows that if he does not shoot he will not be hanged? Is the police officer not in a better position if a chased criminal knows that in order to escape he does not have to shoot?

Police Director SHEA: I do not get it.

The PRESIDING CHAIRMAN: I thought that the question had been clearly stated. I thought that so far as these officers were concerned they had made their position clear.

Mr. MITCHELL (*London*): Let each individual police officer answer the question.

The PRESIDING CHAIRMAN: I think that the matter has been cleared to the satisfaction of the members of this panel, that so far as they are concerned capital punishment should be retained as a protection for a police officer. Is that right, panel?

The WITNESS: Yes.

The PRESIDING CHAIRMAN: I think that this should clear the matter as far as the panel is concerned. If so, let us proceed with the corporal punishment.

Police Chief MULLIGAN: Corporal punishment. Now, in regard to corporal punishment, there are many of us in the police profession—and I subscribe to this group—who feel that there are other effective forms of punishment than the lash, but we would not like to see corporal punishment wholly abolished for reasons I will outline to you. Although we are aware that corporal punishment was abolished in Great Britain (Criminal Justice Act of 1948), we have found it to be a most effective deterrent whenever an epidemic of major crime, such as armed holdups, occurs. As an illustration I would like to cite the experience in my own city a few years ago. We were having quite an epidemic of armed holdups. The descriptions of suspects clearly indicated that several different people were involved. As the number of these crimes increased and were reported in the press, The Hon. the Chief Justice of British Columbia called a meeting of judges and magistrates for the express purpose of securing uniformity in the punishment of persons convicted of these crimes of violence. His Lordship publicly announced through the press that it was the intention of the courts to impose lashes with sentences, as they were determined to stamp out this wave of violence. At the same time the announcement was made investigation by the police resulted in several arrests. Within the space of the next few weeks, several persons had been convicted, some in police court and some in the higher court. In each case the lash was included in the sentence, and within a very short period following, the holdups ceased completely, although we knew that we had not been successful in apprehending all those who had been engaging in these crimes.

During normal times, magistrates and judges have been known to include the lash when a person has been convicted of some violent crime, particularly in cases where the accused had been previously convicted of similar crimes, and again, there have been instances in such cases where the lash has not been imposed, and this lack of uniformity in the opinion of the police, has been the basis for much of the argument in favour of abolishing corporal punishment.

Veteran police officers report that in conversations they have had with accused men, the men have stated their intention of asking the court to impose a whipping and show leniency in the matter of jail sentence, and it has become almost accepted that if an accused convicted of a vicious crime has a whipping imposed, then his sentence in terms of years of imprisonment has been drastically reduced. The police are of the opinion that these requests are made by the criminal with the object of reducing the possibility of proceedings being taken against him under the provisions of the Habitual Offenders section of the



Criminal Code. In this regard, we do feel that section 575B of the Criminal Code relating to the preventive detention of habitual offenders can be given wider application in Canada, and persons with a long life-time history of convictions in criminal cases removed from society for an indeterminate period.

Persons charged under those sections of the Criminal Code dealing with sex penalties may be dealt with in the same way as the habitual criminal under section 1054A of the Criminal Code, by establishing that the accused person is a criminal sexual psychopath, and he also can be committed to a penal institution for an indeterminate period, subject to review by the Minister of Justice every three years.

During the past 20 years there has been a marked trend in Canada towards a broader service to the public by the police. More attention has been paid to the prevention of crime and we welcome the work that is being done by the social workers in our communities, in the increase in probation and the work of probation officers in general. However, in spite of all this, we are concerned in the reduction in the age group of those charged with the most serious crimes. Today it is the group between 18 and 24 years, and the inmates of the penitentiaries reflect this lowering in the age groups.

The problems of juvenile delinquency became very evident in the war years, and reached serious proportions in some communities after the war. In my city of Vancouver, we in the police set up a youth guidance detail composed of police officers who had shown an aptitude for dealing with youth. Since the inception of this detail in March, 1950, the police in Vancouver have listed the names of 7,500 boys and girls who have come to their attention.

Mr. WINCH: 7,500?

The WITNESS: Yes. Cases which have come to the attention of the police. Of this number approximately 2,000 boys and approximately 1,500 girls are listed on file cards in the youth detail office for their continued bad behaviour. From this group we have the records of approximately 150 boys and 100 girls who are all definitely anti-social in their attitude. All have committed numerous offences. Many of the boys have been referred from the juvenile court to the ordinary court, and from there some have been sentenced to the penitentiary and others to the provincial institutions. Speaking of these 150 boys, and the duplicates in other parts of Canada, it is the opinion of the police that corporal punishment in the form of the birch or cane could be used with good effect on this type of youthful offender, and it is our considered opinion that if this were done it would considerably reduce the possibility of corporal punishment, that is, the lash, being imposed in later years.

That is our submission, Mr. Chairman.

The PRESIDING CHAIRMAN: Are there any questions by members? We will start at this end this time.

*By Mr. Lusby:*

Q. Do you think that it is the physical or the psychological effect that does the most good, that is, when one of these young criminals is lashed?—  
A. Are you speaking of adolescents?

Q. Yes.—A. Definitely the physical.

Q. You think that it is the pain more than the humiliation?—A. Both. Of course, you would certainly feel the pain. My own police officers have complained to me in Vancouver that they have been up to the juvenile court when some boys have been accused of serious offences and in many cases these boys have been released. This type of probation is really only in first and second offences. It leaves the feeling with the police officer that they return to the corner gang and the others express surprise at seeing them back; "where have you been"; "there is nothing to it"; "it is all over". That has a very bad effect.

The PRESIDING CHAIRMAN: What do you mean has a very bad effect?

Mr. FULTON: On whom?

The WITNESS: On all the other group of hoodlums that these boys hang around with.

*By Mr. Lusby:*

Q. In other words it makes him a hero?—A. Yes.

Q. Do you think after he gets the lash it is the actual pain which deters him or humiliation, or a combination of both?—A. It is a combination of both, but chiefly the humiliation. I am not suggesting that first offenders be strapped. I am referring to the 150 boys who are repeaters.

Mr. FULTON: Do I understand though that you are prepared to contemplate, and in fact suggest, that there should be a discretion in the court even in the case of the first offender to order it, perhaps not the lash or the strap, but the cane or a birch as a general punishment?

The WITNESS: I was not thinking of a first offender being punished in that way.

Police Director SHEA: Nor an adult?

The WITNESS: No.

Mr. FULTON: I formed the opinion that you had felt in some cases because of the fact that when they get off scot-free they go back to their gangs that in some cases there should be discretion in the courts, some discretion to impose the birch or the cane even in the case of a first offence?

The WITNESS: Yes, I think so, a caning.

Mr. FULTON: Then you would go on beyond that, I suppose, to say that there should be a further change—that would involve a change in the law?

The WITNESS: Yes, I think it would.

The PRESIDING CHAIRMAN: I am a little confused. When a juvenile goes back to his gang after being in court and he is a hero, do you mean after or before he has had a caning?

*By Mr. Fulton:*

Q. I understand the witness to say he is a hero because he has had no punishment. He has been to court, up before the big-wigs, and nothing has happened. "What happened to you?" "I bamboozled them". I understood the chief to say that in those circumstances it had a bad effect on the lad and, the gang to which he went back, and I think it was suggested by the chief that if the lad went back and said that he got a darn good birching that he is not going to be a hero and his confreres will think twice before they continue their activities. Is that right?—A. Yes.

Q. Therefore, you would be prepared to recommend that we consider a change in the law to make the imposition of that penalty possible?—A. I would.

Q. And I also understand you to go on from there and say that there should be perhaps a consideration of some further changes in the law to extend the types of cases in which corporal punishment can be imposed on juveniles?—A. Yes.

Q. And that again you would suggest, however, that with respect to juveniles it should be caning or birching rather than by lash?—A. Yes, rather than the lash or the paddle.

Q. What do you mean by caning or birching? Is there a standard instrument which you have in mind? —A. I was thinking of my own school days when we were caned with a willow cane on the hand.

Police Director SHEA: On the buttocks?

The WITNESS: No, on both hands.



*By Mr. Fulton:*

Q. One final thing: I understood you to say that you are not recommending any elimination of the present discretion as to corporal punishment in the law with respect to adults?—A. That is right, for the reason I have cited, the illustration.

Q. Therefore, any extensions you have in mind relate only to juveniles?—A. Yes.

Mr. FULTON: Thank you.

*By Mr. Mitchell (London):*

Q. I just have one question which deals with the present situation whereby the lash or the strap is ordered as punishment. Can you give us any idea of the number of cases you have in which either the lash or the strap are ordered. Let us say, in the last year or three years?—A. Since the period I spoke of, the epidemic of armed hold-ups six or seven years ago, there has been only the occasional isolated case in Vancouver where the lash has been imposed with a jail sentence.

Q. That leads up to the question that you feel very strongly that that one episode when there was a concentration on the value of the lash for a very short period has taught the required lesson in Vancouver?—A. Yes. It was definitely a wave of violence and it was stamped out, we think, by that means, using the lash.

*By Mr. Fairey:*

Q. Chief Mulligan, I put this question to a previous witness and I think you have repeated what he said, that you are, generally speaking, opposed to a birching or caning for a first offender?—A. Yes, I am a great believer in probation and I feel that in the case of any boy who has made his first mistake that when he appears in juvenile court, it should be explained to him and he should be put on probation.

Q. Just once?—A. Yes, I think so.

Q. Would you agree that punishment to be effective should be full, certain, and sudden? Isn't that the general rule?—A. Yes, to be effective, yes.

Q. Then, if we want to stamp out juvenile crime, petty thieving and things we have in mind with these youngsters, would you not agree that the time to do it is when he first starts and not when it gets into his system?—A. No, I think boys are different, and unless they ignore the warning, they should be given that first opportunity, I think.

Q. I would agree to some, but not many.—A. I have seen numerous cases where nothing has been done.

Q. I am changing the subject again to the general subject of corporal punishment, using either the lash or the strap—as we have it described here. Did I understand you to say that you would be in favour of the abolition of the lash as such and that corporal punishment should be confined to the use of the strap?—A. No, sir, I did not say that. I said that I am one of those who believe that there are other effective ways of dealing with the criminal involved in a life of crime. I mean, by using other sections of the Code.

Q. Did I understand you to say that you are in favour of the retention of corporal punishment as in the present criminal law?—A. Yes, I am.

Q. Would you agree that a combination of corporal punishment and a short sentence is preferable to a long sentence without corporal punishment? In other words, if the Act provides for the judge to give, say, five strokes of the lash and five years, or ten years, which would you think would be the greater deterrent—a lash and five years, or a straight ten years?

Police Chief ROBERT: If I may be permitted—

The PRESIDING CHAIRMAN: Could we ask the members of the panel individually?

Mr. FAIREY: I am trying to find out your opinion as to whether you think corporal punishment and a short sentence is better than a long term in prison?

The WITNESS: My answer would be that many accused people do ask for that.

The PRESIDING CHAIRMAN: What is your opinion? Would you like to express it?

The WITNESS: No, sir, because I know that some criminals do not like doing time and others do.

Police Director SHEA: I would answer affirmatively, based on this.

Mr. FAIREY: I am speaking about the interests of society.

Police Director SHEA: That five-year sentence with the lash would be a greater deterrent than the ten years, and I base my opinion on my experience over a long period of time that an incorrigible—and these are practically all incorrigibles who commit these recurring crimes—have been in jail many times and get to know the law and what happens in these cases. Therefore, they know that if they go in for a ten-year sentence, there is the subject of ticket-of-leave, at least in half that time.

Mr. WINCH: Not in Canada.

Police Director SHEA: I beg to differ. I have been here year after year, in Mr. Guthrie's time and Mr. Lapointe's time, and there have been exceptions, but the general trend is that he will go on ticket-of-leave—

Mr. VALOIS: Half-time when it is the first sentence and two-thirds of the second sentence.

Mr. FAIREY: That is getting away from the point.

Police Director SHEA: Mr. Lapointe explained it to me—I do not think it is unfair, as we found him very good and he would always explain the reasons. We also had a lot of dealings with Mr. Gallagher of the Remission Service. I would answer your question in the affirmative, that the short sentence with the lash would be a deterrent, because we all realize, I am sure, that most of these brutal criminals are cowards in the final analysis. Physical punishment they do not like, and we have known some of them who cringe at the suggestion of it. In Montreal the other day a man got a ten-year sentence, and he asked to get a shorter sentence with the lash. He probably thought he was going to get some sympathy and that the judge would not give him the lash but might say, "Well, I will give you five years". He probably did not want that lash, but he was brave enough to stand up and take a chance, hoping that he would gain the sympathy of the court. They are cowards, and I think that most police officers will agree that these brutal people who abuse women and that sort of thing—and that includes some tough boys who are tougher than any men that we run into—are cowards at heart.

Police Chief DAVIS: I will go along with what Mr. Shea says. I have spoken to many ex-penitentiary convicts, and they certainly fear the lash. I know that. That is why many criminals do not take a gun with them when they go on the job. If they carry a gun, they might possibly receive an armed robbery charge. They certainly fear the law.

The PRESIDING CHAIRMAN: What is your answer?

Police Chief DAVIS: Yes, I would be inclined to go along with a shorter term with the lash.

Police Chief ROBERT: I believe that we cannot answer this. That is the type of case that we cannot generalize.

Mr. FULTON: It depends on the criminal?



Police Chief ROBERT: In some cases the short sentence will do the trick. That is, it will have more effect on the criminal than a long sentence. In others, the lash would not have any effect at all. It is a bargaining proposition with them. Therefore, a longer sentence should be applied in their cases.

Mr. FAIREY: I was coming to that later.

Police Chief ROBERT: That is my point of view based on my experience.

Police Chief MACDONELL: I will agree with Chief Robert. I think that each case should stand on its own merits. I would say the same thing, that it depends on their homes, their upbringing and surroundings, and what can be done.

*By Mr. Fairey:*

Q. I have one last question. Chief Mulligan, I understood from your statement that you were in favour of more general use of those sections which enable the court to judge a criminal as an habitual criminal?—A. Yes.

Q. With an indeterminate sentence?—A. Yes, I am in favour of a wider application of it.

*By Mr. Valois:*

Q. I am just wondering if I should ask a question. What impressed me is that it seems that the value of the lash as a deterrent is in relation to the type of the criminal itself. It means that with the system we have there are some sections where a judge may impose the lash and in other sections he cannot because it is not included in the section? Do you think that this is done, or they are paying enough attention to that very fact, that the lash should rather be imposed in relation to the possibility of its effect on one individual, because he happens to have broken one section of the Code. Am I making myself clear? That is, instead of having the lash—of course you have to understand it is not the main thing; but what I am trying to say is this: the way I see it is that under the system we now have, we have certain sections of the Code where the judge may give as a sentence both the lash and imprisonment. Then there are other crimes wherein only imprisonment or fines can be imposed as a sentence. That takes care of the nature or gravity of the offence, but it does not have regard to the effect it may have on one individual. Are there any suggestions you could make to correct that system?—A. I think the best thing would be if there was a definite uniformity between trial judges and magistrates in imposing the lash.

Q. But again, their hands are tied down by the law.—A. No. They have a discretion.

Police Director SHEA: No. In cases where the section does not require it.

Mr. FULTON: At the present time the penalty of whipping can only be imposed for those types of crimes involving violence. Therefore, with respect, perhaps your question might be worded in this way: It is doubtful if there should be an extension of the discretion to impose whipping to other types of crimes.

Police Director SHEA: Or for the repeaters; I do not think so.

The PRESIDING CHAIRMAN: Mr. Winch?

Mr. WINCH: All my questions have been asked and answered.

The PRESIDING CHAIRMAN: We are beyond our time today and I appreciate your patience, Mr. Blair.

*By Mr. Blair:*

Q. I do not want to take up the time of the committee too much but it may help to fill in the evidence of previous witnesses. Have you, or any members of the panel, any information as to the reformative effects of corporal punishment? Is there any indication that criminals who may have been subject to corporal punishment are less likely to be recidivists than other types of criminals?

Police Director SHEA: I have not any definite information, but I can tell you about a conversation I had with a desperate man. He went to St. Vincent de Paul for four years, and he did not care very much about his own or anybody else's life. I asked him: What effect did penitentiary have upon him? He was a man of 47 or 48 years of age, and I tried to help him when he got out, because I thought he had reformed. Incidentally, that was 10 years ago and he has not returned to crime since. He started off with liquor and went on from there to worse. He was a brainy man and he concocted a scheme whereby he got away with some \$3,000 by spurious pay cheques. There was a lot of brains behind it, and he did such a good job that even the paymaster could not tell whether it was his signature or not. We succeeded in convicting him and he nearly lost his life in the penitentiary because the steam pipes broke one night.

He was on the stone pile and in the jute mill, because he would not obey the regulations of the penitentiary when he first went in. He was a hardened criminal, but he had never been in jail before—this was his first offence. We were after him for a long time, but he was so clever, we were never able to get the evidence, although we knew that he was stealing wholesale. He admitted everything to me after he got out and told me that the jute mill and the stone pile took all the fight out of him,—so much so, that although he was an expert mechanic and steam fitter, one night just before the King's amnesty in 1939—when the King visited Canada in 1939—he was so fed up with penitentiary that he volunteered to go in and fix the steam pipes by putting on five raincoats to hold back the steam, and he was nearly scalded. He of course was unaware of the King's amnesty and took this chance, and the warden promised him for that, he would be released as soon as possible, because he had already served nearly four years, and he was freed on the occasion of the King's amnesty anyway. But he told me he took the chance on his life because of the people he was associated with—he said, "I thought I was a tough guy when I went there, but they took that out of me." He told me he spoke to fellows who had the lash and they said that if they got the chance to get a job that penitentiary would never see them again. Unfortunately they make these resolutions, but they do not always keep them. We all make resolutions and do not keep them, but these fellows are more unfortunate. However, it did have a deterrent effect on this chap. He has been out 10 years. This man has had a hard struggle. I have been interested in him and have tried to help him. He is also an inventor, and invented many little things when he was working in our shops. However, people do not like to trust a man who has served a sentence in penitentiary. He makes a living and that is all. He told me that story when he came to visit me to see what I could do for him. He is not the type to give you a line of blarney or something like that, but is really an intelligent man who doesn't say two words if one will fit the picture.

Mr. FULTON: You said he did not have the lash—it was the penitentiary?

Police Director SHEA: Yes, but he told me those criminals in there—they have some tough individuals at St. Vincent de Paul—and to use his own words, "I used to enjoy hearing them letting off steam the first month they were there, and I knew that living in the penitentiary would soon take it out of them,



because they do not like physical effort—they are naturally lazy or they would not be criminals. They find they can make a living easier by stealing and one thing and another. He said that I could leave a million dollars before him and he would now be able to pass it up, because he knows it is not worth it. I have talked to many others, too.

Mr. WINCH: Just before we adjourn for the night—I do not think it comes under our directive, but in listening this afternoon to the words of Chief Mulligan here, I believe even if it does not come under our directive and if you and the committee agree, would it be possible at one of our meetings before Police Chief Mulligan goes back to Vancouver to give us—and through us to the press and to Canada—a greater understanding of what he explained that he has the names of thousands of juveniles in Vancouver that have been brought to the attention of the police. They have boiled it down to approximately 150 boys and 100 girls and they have a committee. This is one of the most interesting things I have heard, Mr. Chairman, and although it does not come completely under our directive I would like, Mr. Chairman, if you could consider whether we could have Chief Mulligan address us on this experience and this work, and how it has been handled?

The PRESIDING CHAIRMAN: Yes. Chief Mulligan will be back tomorrow and probably will have an opportunity of amplifying his statement.

The WITNESS: I will be very glad, Mr. Chairman.

*By Mr. Blair:*

Q. Before we break up, I think it would help us if we could have the comments of these gentlemen on certain proposed changes in the Criminal Code. We are all familiar with the present offences for which corporal punishment may be imposed. The new Code proposes that corporal punishment should be dropped for two offences. One is the offence of gross indecency. The reason for that is that it is regarded as being an offence committed by a sexual psychopath and that there is another form of treatment more desirable. The other offence for which corporal punishment might be deleted occurs in section 292.

Police Director SHEA: What was the other section you quoted?

Mr. BLAIR: Section 206. 292 deals with assault on females.

Mr. WINCH: In the new Act?

Mr. BLAIR: I am giving the numbers out of the old Code. The new Code proposes that the offence of gross indecency be not subject to corporal punishment. Perhaps I should segregate these. Are there any comments these gentlemen would like to make on gross indecency?

The WITNESS: I would agree with that.

Police Director SHEA: I would too.

Police Chief DAVIS: Yes.

Mr. WINCH: The Criminal Code has now passed the House of Commons on that section and why do you raise it now?

Mr. FULTON: We can extend it or recommend that.

Mr. BLAIR: The other major change in corporal punishment in the new Code occurs in the old section 292, which deals with the simple assault on the wife or any other female occasioning bodily harm, and it is proposed in the new Code to abolish it in respect of that offence.

Mr. WINCH: It is the only time I would agree with it.

The PRESIDING CHAIRMAN: Have you any comment, gentlemen?



The WITNESS: The only comment I would make in respect to the assault on a man's wife is that I know sometimes they are the most dreadful cases.

Mr. FULTON: The panel is in accordance with the change which the new Code would make in that respect?

The WITNESS: Yes.

Police Director SHEA: It would depend on the seriousness of the offence.

The PRESIDING CHAIRMAN: The panel believes that it should be left to the discretion of the courts.

Police Chief ROBERT: The court should have the power to impose it.

The PRESIDING CHAIRMAN: Tomorrow we will meet in this room at 4 o'clock in the afternoon.

Mr. FULTON: I move that we adjourn.





